IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

THURSDAY, THE 21ST JUNE 2007 / 31ST JYAISHTA 1929

WP(C).No. 10432 of 2005(S)

OA.757/2004 of CENTRAL ADMINISTRATIVE TRIBUNAL,ERNAKULAM BENCH
.....

PETITIONER:

J.JOSEPH, KARIYOTTU MAMOOTTIL HOUSE,
VENCHEMPU, PUNALUR.

BY ADV. SRI.C.S.GOPALAKRISHNAN NAIR

RESPONDENTS:
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1. COMMISSIONER OF CENTRAL
EXCISE & CUSTOMS, CENTRAL REVENUE BUILDINGS,
I.S.PRESS ROAD, COCHIN-682 018.

2. CHAIRMAN, CENTRAL BOARD OF EXCISE
& CUSTOMS, NORTH BLOCK, NEW DELHI.

3. UNION OF INDIA, REPRESENTED BY
THE SECRETARY, DEPARTMENT OF REVENUE,
MINISTRY OF FINANCE, NORTH BLOCK,
NEW DELHI-110 001.

BY ADV. SRI.P.PARAMESWARAN NAIR, CGC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.S. RADHAKRISHNAN & ANTONY DOMINIC, JJ.

W. P.C. No 10432 of 2005

Dated: 21st June 2007

JUDGMENT

Radhakrishnan, J.

This writ petition has been filed against the order passed by the Central Administrative Tribunal in O.A. No 757 of 2004. Application was filed by the petitioner before the Tribunal challenging Annexures A6 and A7 orders by which his request for compassionate appointment was rejected. Petitioner's father died in harness on 7.1.1998 and the application was preferred immediately on 27.01.1998 for compassionate apppointment. Petitioner was qualified for being appointed to the post of L.D.C, or other equivalent post. Complaint of the petitioner is that overlooking his legitimate claims several others were appointed on compassionate grounds. Reference was made to Ext. P5. It is also stated that the procedure laid down in Ext. P2 scheme for

compassionate appointment was also not followed in the case of the petitioner. The main ground on which the Tribunal rejected his application was that the three year period had already lapsed and no vacancy was available during that period to accommodate the petitioner. On facts petitioner tried to demonstrate the availability of several vacancies during the three year period. Even otherwise, counsel submitted that several persons were appointed overlooking the legitimate claim of the pettioner and there is no reason why a differential treatment was meted out to the petitioner. Details have been furnished before us. Considering the facts and circumstances of the case, we feel that it would be better that those materials be placed before the Tribunal and let the Tribunal shall consider those materials and pass orders. Petitioner is therefore given an opportunity to place all those relevant materials before the Tribunal and the Tribunal is directed to consider his claim afresh. Considering the fact that the application was submitted by the petitioner as early as in 1998 and that almost nine years have lapsed, we think it would be appropriate that the Tribunal would dispose of the application within a period of three months from the date of receipt of a copy of this judgment. Petitioner will produce a

copy of this judgment before the Tribunal for early disposal of the application. Writ petition is allowed as above and the order of the Tribunal is set aside.

Sd/-

K.S. RADHAKRISHNAN
Judge

Sd/-

ANTONY DOMINIC
Judge

21/06/2007
en/

[true copy]

APPENDIX

Petitioner's exhibits:

Ext.P1 - True copy of the order dated 16.12.2004 in OA 757 of 2004 of the Central Administrative Tribunal
Ext.P2 - True copy of scheme published in OM No 14014/6/94-Estt. (D) dated 9.10.1998
Ext.P3 - True copy of the O.A
Ext.P4 - True copy of the reply statement filed on behalfof the respondents.
Ext.P5 - True copy of the list filed as Annexure R1 in OA 761/2004

[true copy]